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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re K.H. et al., Persons Coming Under the
Juvenile Court Law.

LOS ANGELES COUNTY DEPARTMENT
OF CHILDREN AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

L.O. and R.G.,

Defendants and Appellants.

B259154

(Los Angeles County
Super. Ct. No. DK06350)

APPEAL from an order of the Superior Court of Los Angeles County, Carlos E. Vazquez, Judge. Dismissed.

Jesse McGowen, under appointment by the Court of Appeal, for Defendant and Appellant L.O.

Linda Rehm, under appointment by the Court of Appeal, for Defendant and Appellant R.G.

Mark J. Saladino, County Counsel, Dawyn R. Harrison, Assistant County Counsel, and Kim Nemoy, Deputy County Counsel, for Plaintiff and Respondent Los Angeles County Department of Children and Family Services.

Appellants L.O. (Mother) and R.J. (Father) appeal from the juvenile court's jurisdiction order declaring their children dependents of the court pursuant to Welfare and Institutions Code section 300, subdivision (b).¹ Their sole contention on appeal is that the evidence was insufficient to support the juvenile court's jurisdictional finding that their cultivation of over 200 marijuana plants at the family's home placed the children at risk of serious physical harm. Because the juvenile court terminated its jurisdiction over the children during the pendency of the parents' appeals, we dismiss the appeals as moot.

FACTUAL AND PROCEDURAL BACKGROUND

Mother and Father are the married parents of 16-year-old K.H., 12-year-old S.H., and seven-year-old L.G.² This matter came to the attention of the Department of Children and Family Services (DCFS) on July 10, 2014, when law enforcement officers conducted a search of the family's residence and recovered 228 marijuana plants being cultivated in the garage and various items of drug paraphernalia inside the home. At the time, Mother had a prescription for medical marijuana to treat bipolar disorder.

On July 15, 2014, the DCFS filed a dependency petition on behalf of each of the children under section 300, subdivision (b). At the detention hearing held that day, the juvenile court ordered that all three children be released to Mother and Father pending further hearing. At the jurisdiction and disposition hearing held on September 16, 2014, the juvenile court sustained a single count in the petition as follows: "The children, [K.H.], [S.H.] and [L.G.'s] mother, L.O. and the mother's male companion, [R.G.], father of the child [L.G.], created a detrimental and endangering home environment for the children in that [l]aw [e]nforcement recovered 228 marijuana plants being cultivated at the children's home within access of the children. Several drug paraphernalia were found

¹ Unless otherwise stated, all further statutory references are to the Welfare and Institutions Code.

² Mother is the biological mother of all three children. Father is the biological father of L.G. and the stepfather of K.H. and S.H. The biological father of K.H. and S.H. is not a party to these proceedings and his whereabouts are unknown.

in the children's home within access of the children. Such a detrimental and endangering home environment established for the children by the mother and the . . . father endangers the children's physical health, safety and well being and places the children at risk of serious physical harm.” The juvenile court declared each of the children a dependent of the court pursuant to section 300, subdivision (b) and ordered that they remain in the home of their parents under the supervision of the DCFS.

On September 16, 2014, both Mother and Father filed notices of appeal from the jurisdictional order. On February 9, 2015, while the appeals were pending, the juvenile court terminated its dependency jurisdiction over each of the children, who remained in the care and custody of both parents.³ On April 15, 2015, we advised the parties that we intended to take judicial notice of the juvenile court's February 9, 2015 order and invited them to submit supplemental briefs addressing whether the appeals should be dismissed as moot. Both Mother and Father thereafter filed supplemental briefs in which they argued that their appeals were not moot.

DISCUSSION

“As a general rule, an order terminating juvenile court jurisdiction renders an appeal from a previous order in the dependency proceedings moot. [Citation.] However, dismissal for mootness in such circumstances is not automatic, but ‘must be decided on a case-by-case basis.’ [Citations.]” (*In re C.C.* (2009) 172 Cal.App.4th 1481, 1488.) An appellate court ordinarily will not dismiss as moot a parent's challenge to a jurisdictional finding if the purported error “could have severe and unfair consequences to [the parent] in future family law or dependency proceedings” (*In re Daisy H.* (2011) 192 Cal.App.4th 713, 716), or the parent “raise[s] a statutory interpretation issue that could arise again and evade review” (*In re Marquis H.* (2013) 212 Cal.App.4th 718, 724). On the other hand, where the parent fails to identify any “specific legal or practical consequence from [the

³ On this court's own motion, we take judicial notice of the minute order entered by the juvenile court on that date. (Evid. Code §§ 452, subd. (d), 459, subd. (a).)

challenged] finding, either within or outside the dependency proceedings,” the appellate court may, in its discretion, decide that no effective relief can be granted and dismiss the appeal as moot. (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1493.)

In this case, Mother and Father contend that the juvenile court erred in assuming jurisdiction over their three children because the evidence was insufficient to support the court’s jurisdictional finding under section 300, subdivision (b). However, the issue of whether there was substantial evidence to support the juvenile court’s initial exercise of jurisdiction has been rendered moot by its subsequent order terminating its dependency jurisdiction over K.H., S.H., and L.G., each of whom remained in the custody of both parents at all relevant times. In the supplemental briefs, Mother and Father acknowledge that the juvenile court’s exercise of jurisdiction did not result in any change in placement or custody status for their children. They nevertheless assert that their appeals are not moot because the challenged jurisdictional finding could have a detrimental impact on them in future dependency or family law proceedings. Mother also argues that the challenged finding could adversely affect their future employment opportunities if it causes a report to be filed with the Child Abuse Central Index (CACI).⁴

The potential adverse consequences cited by Mother and Father are highly speculative. As noted, the juvenile court never ordered the removal of the children from either parent’s custody in issuing its jurisdiction and disposition orders, and all three children remained in the care and custody of both parents at the time the court terminated jurisdiction. Therefore, in contrast to the cases primarily relied on by Mother and Father, the termination of jurisdiction in this case did not result in the issuance of any family law exit order on custody or visitation, nor is there any pending dependency or family law proceeding involving the parents or the children. (See *In re C.C.*, *supra*, 172 Cal.App.4th

⁴ The CACI is maintained by the California Department of Justice, which is required to disclose substantiated reports of child abuse and severe neglect to any law enforcement or other agency conducting a child abuse investigation as well as certain agencies conducting background checks of applicants seeking employment involving contact with children. (See Pen. Code, § 11170.)

at pp. 1488-1489 [considering merits of mother's appeal from erroneous order denying visitation notwithstanding subsequent order terminating jurisdiction and restoring monitored visitation through family law exit order]; *In re J.K.* (2009) 174 Cal.App.4th 1426, 1431-1432 [father's challenge to jurisdictional finding not moot where juvenile court issued family law exit order awarding full custody of child to mother and limited visitation to father with child's consent]; *In re A.R.* (2009) 170 Cal.App.4th 733, 739-740 [servicemember father's appeal from denial of motion to stay dependency proceeding not moot where juvenile court later terminated jurisdiction, granted sole custody of child to mother, and severely restricted father's visitation rights].) Moreover, a finding of jurisdiction in any future dependency proceeding would have to be based on then current conditions placing the children at a substantial risk of harm. As both parents point out in their appellate briefs, the family has since moved from the residence where the marijuana plants were confiscated by the police and they are no longer cultivating large quantities of marijuana at their home. Given the nature of the jurisdictional finding in this case, it is difficult to imagine how it could result in severe and unfair consequences to the parents in any future dependency or family law proceeding. There is also no indication that the jurisdictional finding caused a child abuse report involving Mother or Father to be included in the CACI, nor is there any showing how such a report might adversely impact either parent's employment opportunities. Because Mother and Father have failed to identify any specific adverse consequence that could result from the jurisdictional finding, we decline to exercise our discretion to review the merits of their appeals.

DISPOSITION

The appeals filed by Mother and Father are dismissed as moot.

ZELON, J.

We concur:

PERLUSS, P. J.

IWASAKI, J.^{*}

^{*} Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.